

LMI Waivers:

Requesting LMI Waivers from HUD



Texas General Land Office
Community Development and Revitalization

The U.S. Department of Housing and Urban Development (HUD) mandates that 70% of Community Development Block Grant for Disaster Recovery (CDBG-DR) funds for Hurricane Harvey be used to benefit low- to moderate-income (LMI) persons, but waivers can be requested. The rules for LMI requirements and waivers are clearly defined by HUD on page 5855 in the Federal Register notice published Feb. 9, 2018.

A household is considered LMI if they make less than 80% of the area median income (AMI) for their county as determined by HUD. Infrastructure projects meet HUD's requirement if 51% of households in the area benefitting from the project are LMI.

WAIVERS

The Texas General Land Office (GLO) can help a community prove that a project meets HUD's LMI requirement and can also support developing a request for a waiver from the LMI requirement. The GLO will then work with HUD to present the project for potential approval. The data supporting the waiver request must be developed by the community, but the GLO is committed to helping communities with HUD's waiver process.

HUD will only consider a waiver to the 70% LMI requirement if a community:

- Identifies the planned activities that meet the needs of its LMI population;
- Describes proposed activities that will be affected by the waiver;
- Explains how abiding by the LMI requirement makes the project ineffective; and
- Demonstrates that the LMI population's disaster recovery needs have already been met, the non-LMI needs are disproportionately greater, and the community lacks other resources to serve them.

*The GLO does not have the authority to waive HUD's LMI requirements for housing or infrastructure projects. If the burden is lowered in one area without obtaining a waiver from HUD, it must be unfairly raised for other affected communities. To allow one community to spend any less than 70% of its allocated funds on LMI activities, neighboring communities would have to use more than 70% of their allocations toward LMI eligible projects. The GLO is continuing to explore ways in which local communities can equitably address HUD's LMI requirements.